

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Hanspeter Reust

GAU 1619
Examiner G. Yu

Ser. No. 09/897,229

Filed on July 2, 2001

For DAIRY BASED COSMETIC PRODUCT, etc.

FAX RECEIVED

SEP 27 2002

GROUP 1600

EXPEDITED PROCEDURE

Attorney's Docket 1177-001A

Box AFCommissioner of Patents
Washington DC 20231**OFFICIAL**

Sir:

RESPONSE

Please extend the term for response by 1 month, now to expire on October 20, 2002. Please charge the \$55 fee to deposit account No. 60923.

The outstanding Office letter was made final prematurely, because applicant's previous amendment did not necessitate a new search and the citation of new references. The examiner's statement to that effect is therefore in error. The newly cited references were used in rejecting claims 20 and 21. These claims are not new, because they are virtually identical to deleted claims 15 and 16 which they replaced with only a minor spelling correction in each. Hence it was clearly not the applicant's amendment that necessitated the citation of new references for the first time, and the finality of the outstanding action is premature and should be withdrawn.

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If the examiner persists in maintaining the finality of the rejection, then it is requested that this document be promptly treated as a petition to the Group Director for withdrawing the premature finality of the outstanding action.

Please amend the disclosure as follows:

Replace the paragraph on page 6, line 11 to p. 7, line 1 with the following text

--An essential ingredient of the premix is a preservative, suitably an antimicrobial paraben preservative such as those sold under the trade names Phenova W90, Phenoben W90, and Phenonip, by Georges Walther AG, or a mixture of phenoxyethanol, with one or more of methyl-, ethyl-, propyl-, and butylparaben. Other cosmetic preservatives such as iodopropinyl butylcarbamate, PEG-4 laurate, PEG-4 dilaurate can also be used. The concentration of the preservative is suitably from about 0.1% to about 0.7% wt. based on the formulation. Imidazolidinyl urea, suitably at a concentration of from about 0.1% to about 0.7% wt. based on the total formulation is also an essential ingredient along with the preservative.--

Please amend the claims as follows:

Claim 1, line3, change "liquid carrier," to --water or pasteurized or unpasteurized liquid whey carrier-- .

Delete claims 19-21.

REMARKS

Claims 1-5, 7-12, 14, and 17-19 are in the application. An amendment comparison page is enclosed.

Claim 18 was rejected under 35 U.S.C. §112, second. The rejection is traversed, because it is not well taken. The enumeration of the alternatives in claim 18 is preceded by "one or more of ..." and the enumeration of the alternatives is properly joined in English with an "and" and not an --or-- before the last alternative ingredient of imidazolidinyl urea. If the examiner prefers, then the "or" may be deleted by examiner's amendment before "iodopropinyl."

Phillips' Example 5 prepares a foamable composition by admixing a 5% microfiltered whey protein isolate solution and ethanol and adds the mixture to mineral oil to obtain the foamable shaving cream. The present application makes it abundantly clear that the whey that it employs is rather sweet dry whole whey powder or sweet (optionally pH adjusted) whole liquid whey (page 4, lines 6-8), rather than the whey protein isolate solution employed by Phillips.